

State Water Resources Control Board

October 28, 2020

Sent via regular U.S. mail

Michael N. Kobseff, Chair
Members of Siskiyou County Board
of Supervisors
P.O. Box 750
1312 Fairlane Road
Yreka, California 96097

**RE: SHASTA RIVER WATERSHED ENVIRONMENTAL COMPLAINT AND
REQUEST FOR CANNABIS PRIORITY WATERSHED STATUS**

Dear Chair Kobseff, Vice Chair Haupt, and Members of the Siskiyou County Board of Supervisors:

The State Water Resources Control Board (State Water Board) and the North Coast Regional Water Quality Control Board (Regional Water Board) (collectively the Water Boards) are in receipt of the Siskiyou County Board of Supervisors' (County) September 4, 2020 complaint concerning illegal cannabis cultivation. The Water Boards appreciate the County's interest in working collaboratively with us to protect the Shasta River watershed and the State's water resources. The Water Boards are grateful for the time and effort the County took to document the extent of illegal cannabis cultivation in the Siskiyou County and for providing the Water Boards with this information.

Several requests¹ were included in the County's complaint. The Water Boards have reviewed all the information and allegations included in the complaint, in addition to further information provided by other concerned Siskiyou County residents. The Water Boards take these allegations seriously and thoroughly considered how we can best act to address the County's requests.

The Water Boards' Cannabis Program resources are spread throughout the state, with a higher concentration of staff located in the North Coast Regional Water Quality Control

¹ The Water Boards identified the following items as the actions the County is requesting:

(1) Recognize the Shasta River watershed as a watershed of special environmental concern and at increased risk of environmental impacts due to the proliferation of illegal cannabis cultivation; (2) Designate the Shasta River watershed as a "Cannabis Priority Watershed"; (3) The Water Boards immediately inspect illegal cannabis cultivation sites in Siskiyou County; and (4) The State Water Board exercise its cease and desist authority to stop groundwater pumping for cannabis cultivation.

Board and the Central Valley Regional Water Quality Control Board. Due to funding shortfalls for the statewide Cannabis Program, the Water Boards have had to significantly reduce Cannabis Program staffing this fiscal year (30 percent reduction program wide, 50 percent reduction in water quality related cannabis staff). The remaining Cannabis Program staff of around 80 personnel statewide are responsible for both administering and enforcing the Water Boards' Cannabis Program. With approximately 30,000 cultivation sites in California and less than 6,000 of those sites enrolled in the Water Boards' program, the Water Boards only have resources to address a small fraction of illegal cultivation sites.

It is important to acknowledge that the Water Boards do not have law enforcement officers. Even prior to this year's reduction in staff resources, the Water Boards could only participate in a small percentage of the inspections conducted by other state or local agencies on illegal cultivation sites, including California Department of Fish and Wildlife's law enforcement branch. Accordingly, the Water Boards must triage illegal cultivation sites and prioritize only those sites with the most egregious environmental harms statewide for inspection and enforcement when necessary.

RESPONSE TO THE COUNTY'S REQUESTS

Priority Watershed Designation

The purpose of designating a watershed as a "Cannabis Priority Watershed" is to identify areas of special environmental concern that are at an increased risk of impacts due to cannabis cultivation activities. The practical effect is that the Water Boards focus on these watersheds for increased outreach, education, permitting, and enforcement. This does not mean that those are the *only* watersheds where the Water Boards are conducting those activities. Outside of the Cannabis Priority Watershed areas, individual sites will be prioritized when they present a significant threat to water quality or surface flows.

The Water Boards take note of the serious issues raised by the County and the alleged impacts of illegal cannabis cultivation on the Shasta River watershed. The Water Boards and Department of Fish and Wildlife annually (typically within the first quarter of the calendar year) review watershed priorities to include new cannabis cultivation areas as necessary. These impacts, and all other criteria and information associated with cannabis cultivation in the Shasta River watershed, will be considered when the Water Boards next update the Cannabis Priority Watershed designations.

Immediate Inspection and Enforcement Attention

As discussed above, the Water Boards must prioritize enforcement actions against non-compliant cannabis cultivation in high-value critical habitat areas where there is a high potential for immediate and severe environmental and water quality impacts. The Water Boards committed significant Cannabis Program resources to inspections in and around Mt. Shasta Vista in 2017 and 2018. The water quality and surface flow impacts from cannabis cultivation documented during those inspections were generally not as

severe as impacts observed in areas currently designated as Cannabis Priority Watersheds. Nevertheless, the Water Boards are committed to continue to work with the County to preserve and enhance the waters and fishery resources of the Shasta River watershed and participate in inspections when priority sites are identified.

The Cannabis Enforcement Program is available to respond to sites evidencing a high threat to water quality or surface stream flows in the County. To the extent that there are areas accessible to Coho salmon being impacted by cannabis cultivation, those areas are a high priority for the Water Boards' Cannabis Program. As part of a collaborative effort to address illegal cannabis cultivation in the watershed, the Water Boards' Cannabis Program staff are available to meet with County staff to identify sites that the County believes present a significant threat to water quality or surface flow due to cannabis cultivation. These sites can then be considered and prioritized by the Water Boards for future inspections and enforcement as resources permit.

Cease and Desist Authority

The Water Boards are aware that groundwater extraction is a key water resource management issue in the Shasta Valley, as well as the Scott Valley. Under the Sustainable Groundwater Management Act (SGMA), the County is the lead entity for implementing plans for groundwater extraction and adopting protective water use ordinances. Ongoing collaborative work between the County and the state's California Water Action Plan team will eventually shed light on how groundwater extraction affects surface water flows in the Shasta River watershed. However, any management actions that result from those efforts are still years away.

Unmanaged groundwater pumping and water use during the current drought are stressing the unique integrated surface water and groundwater system in these watersheds. However, in most circumstances the Water Boards have no regulatory oversight or authority over permitting or approving the construction of groundwater wells, which is a local action. The Cannabis General Order and the State Water Board's cease and desist authority (Water Code § 1831) regulate surface water diversions and can, in some circumstances, be used to regulate cannabis-related groundwater pumping that impacts or has the potential to impact surface flows. We do not currently have evidence demonstrating that the groundwater pumping detailed in the County's complaint is impacting surface flow.

Independent of authority, we estimate that groundwater use for cannabis cultivation in the basin is significantly less than the volume of groundwater used for other irrigation purposes. The Shasta groundwater basin draft Groundwater Sustainability Plan's water budget² indicates that the Shasta groundwater basin uses approximately 30,000 acre-feet

² Available at Siskiyou County website:

https://www.co.siskiyou.ca.us/sites/default/files/fileattachments/shasta_valley_groundwater_advisory/meeting/15119/shastaac_technicalpresentation_sep252019.pdf

(9.7 billion gallons) a year for irrigated agriculture. The volume³ of water pumped from wells and delivered via trucks for cannabis cultivation is 0.4 percent of the volume used by other irrigated agriculture in the basin. There are likely additional cannabis cultivation sites within the watershed pumping groundwater using private wells and these groundwater extractions may be significant. However, it is unlikely the groundwater pumping and trucking documented in the County's letter is causing the declines in the aquifer noted throughout the Shasta groundwater basin. Other agricultural water uses (e.g. flood irrigation, stock water, and forage crops), in combination with a significant drought, are much more likely to be impacting groundwater levels in the County.

The Water Boards are committed to supporting the County's efforts to protect the Shasta River watershed and appreciate the County's desire to work collaboratively. With the limited resources available to the Cannabis Program, however, the Water Boards' priorities are to focus on sites with immediate and significant threats to water quality or surface flow. At this time, the Shasta River watershed is not designated as a Cannabis Priority Watershed. Regardless, we look forward to continued collaboration and dialog with County staff and our partner agencies (California Department of Fish and Wildlife and California Department of Food and Agriculture) on identifying priority sites in Siskiyou County for the Water Boards' attention.

Sincerely,

 Digitally signed by Eileen Sobeck
Date: 2020.10.28 09:07:51
Water Boards

Eileen Sobeck
Executive Director

 Digitally signed by Matthias St John
Date: 2020.10.28 08:56:40 -07'00'
Water Boards

Matthias St. John
Executive Officer
North Coast Regional Water Board

cc: See next page.

³ This estimated volume is based on the assumptions included in the Board's complaint; 2,000 cannabis cultivation sites, 200 plants per site, 6 gallons of water per plant per day, with approximately 800 water truck loads per day to supply demand.

cc: *(sent via email only)*

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